

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

STUDENTS FOR FAIR ADMISSIONS, INC., §

Plaintiff, §

v. §

UNIVERSITY OF TEXAS AT AUSTIN; §

JAMES B. MILLIKEN, *Chancellor of the* §

University of Texas System in his Official Capacity; §

STEVEN LESLIE, *Executive Vice Chancellor* §

for Academic Affairs of the University of Texas System §

in his Official Capacity; DANIEL H. §

SHARPHORN, *Vice Chancellor and* §

General Counsel of the University of Texas §

System in his Official Capacity; §

JAY HARTZELL, *President of the* §

University of Texas at Austin in his §

Official Capacity; BOARD OF REGENTS §

OF THE UNIVERSITY OF TEXAS §

SYSTEM; DAVID J. BECK, CHRISTINA §

MELTON CRAIN, KEVIN P. ELTIFE, R. §

STEVEN HICKS, JODIE LEE JILES, §

JANIECE LONGORIA, NOLAN PEREZ, §

KELCY L. WARREN, and JAMES C. §

“RAD” WEAVER, *as Members of the Board* §

of Regents in Their Official Capacities; §

DANIEL JAFFE, *Interim Executive Vice* §

President and Provost; RACHELLE §

HERNANDEZ, *Senior Vice Provost for* §

Enrollment Management and Student §

Success; and MIGUEL WASIELEWSKI, §

Executive Director for Office of Admissions, §

Defendants. §

1:20-CV-763-RP

ORDER

On March 8, 2021, Defendants¹ filed a motion for dismissal, or alternatively summary judgment, (Dkt. 45), and Defendant-Intervenors² filed a motion to dismiss, (Dkt. 44). To date, Plaintiff Students for Fair Admissions (“SFFA”) has not filed a response to either motion. SFFA’s response date for these motions was March 22, 2021. W.D. Tex. Loc. R. CV-7(e)(2) (requiring parties to file responses to dispositive motions within 14 days); Fed. R. Civ. P. 6(a). Neither party has filed anything further in this case.

Although dismissal or summary judgment are not automatic when a dispositive motion is unopposed, the Court reminds SFFA that the “burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction,” and “when no response is filed to a motion for summary judgment, the Court may take the movant’s uncontroverted factual assertions as true.”

Ramming v. United States, 281 F.3d 158, 161 (5th Cir. 2001), cert. denied, 536 U.S. 960 (2002); *Baton Rouge Oil & Chem. Workers Union v. ExxonMobil Corp.*, 289 F.3d 373, 375 (5th Cir. 2002).

Nonetheless, the Court will exercise its discretion to give SFFA a second opportunity to address Defendants and Defendant-Intervenors’ motions.

¹ Defendants are The University of Texas at Austin (“UT Austin”), the Board of Regents of the University of Texas System (“the UT System Board of Regents”), James B. Milliken, Chancellor of the University of Texas System in his Official Capacity; Steven Leslie, Executive Vice Chancellor for Academic Affairs of the University of Texas System in his Official Capacity; Daniel H. Sharphorn, Vice Chancellor and General Counsel of the University of Texas System in his Official Capacity; Jay Hartzell, President of the University of Texas at Austin in his Official Capacity; David J. Beck, Christina Melton Crain, Kevin P. Eltife, R. Steven Hicks, Jodie Lee Jiles, Janiece Longoria, Nolan Perez, Kelcy L. Warren, and James C. “Rad” Weaver, as Members of the Board of Regents in their Official Capacities; Daniel Jaffe, Interim Executive Vice President and Provost; Rachelle Hernandez, Senior Vice Provost for Enrollment Management and Student Success; and Miguel Wasielewski, Executive Director for Office of Admissions.

² Defendant-Intervenors are eight University of Texas at Austin (“UT”) students—Adaylin Alvarez, Morgan Bennett, Brianna Mallorie McBride, Liz Kufour, Desiree Ortega-Santiago, Nima Rahman, Alexandra Trujillo, and Rosaleen Xiong—(“student Movants”), and three organizations—the Texas National Association for the Advancement of Colored People (“Texas NAACP”), the Black Student Alliance (“BSA”), and the Texas Orange Jackets (together, “organizational Movants”). (*See* Order, Dkt. 35).

Accordingly, **IT IS ORDERED** that SFFA shall file a response to Defendants and Defendant-Intervenors' motions, (Dkts. 44, 45), on or before **April 7, 2021**. Defendants and Defendant-Intervenors may file replies in accordance with the Court's Local Rules.

SIGNED on March 30, 2021.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE